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State Department Problems--
German Scientists

I. The Problem

The decision to facilitate the entrance into the United States under visas of German and Austrian scientists and technicians imposes a serious responsibility on the State Department which it cannot and should not minimize or evade. The effect of the President's decision to open the quota to such persons and their immediate families (paraphrasing the determination) is to create a serious security problem in direct frustration of the Safehaven program of this and Allied governments, the Repatriation program, and the Potsdam Declaration, with respect to the control of Germany.

The Allied Control Council has just approved Law No. 25, providing for a rigid and continuing control of scientific research in Germany, prohibiting the study of such subjects as nuclear physics, research in aerodynamics, rocket propulsion, jet propulsion, radar, etc. The Potsdam Declaration provided that Allied control should be imposed on the German economy "to the extent necessary (e) to control all German public or private scientific bodies, research and experimental institutions, laboratories, etc. connected with economic activities".

The Directive to the Commander in Chief of United States Forces of Occupation (JCS-1067) provided that

"31. As an additional measure of disarmament, the Control Council should

"a. prohibit initially all research activities and close all laboratories, research institutions and similar technical organizations except those considered necessary to the protection of public health;

"b. abolish

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"b. abolish all those laboratories and related institutions whose work has been connected with the building of the German war machine, safeguard initially such laboratories and detain such personnel as are of interest to your technological investigations, and thereafter remove or destroy their equipment;

"c. permit the resumption of scientific research in specific cases, only after careful investigation has established that the contemplated research will in no way contribute to Germany's future war potential and only under appropriate regulations which (1) define the specific types of research permitted, (2) exclude from further research activity any persons who previously held key positions in German war research, (3) provide for frequent inspection, (4) require free disclosure of the results of the research and (5) impose severe penalties, including permanent closing of the offending institution, whenever the regulations are violated.

"Pending agreement in the Control Council you will adopt such measures in your own zone."

Thus, while the Department has been striving to place under the jurisdiction of the Allied Control Council as many Germans as possible who might embody or assist German plans to maintain technology or skills for a future resurgence of military power, the facts presented indicate that the Allied Control Council is not able or willing to exercise such controls and that the burden may be, to a large extent, placed on the domestic authorities of the United States. This is a very serious turn in the German security problem, and its implications are serious. The responsibility for imposing such a burden, however, is bound to be placed squarely on the State Department which, in conjunction with the Immigration Service, will have permitted such scientists to enter the United States.

Regardless, however, of the wisdom of the decision, the Department must observe its commitment "to facilitate" the bringing in of such scientists. However, that facilitation must be consistent with the Department's statutory obligations respecting the issuance of visas, and with its treaty obligations (such as the Inter-American agreements), and with its duties to the American public. It would seem that for the protection of the Department from reasonable criticism now, or in the future, the Department should insist upon a maximum

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of security protections in the selection of immigrants, the investigations of relevant factors, the nature and conditions of employment in the United States, the surveillance and observation of the immigrants, and the imposition of such controls over their behavior, their movements and their activities into the indefinite future as to make a record that the State Department insisted upon the maximum of protection against all those security and other evils against which the State Department is required or expected to guard.

II. The Factors

It is well to note that the main factors involved appear to be the following:

1. Immigration is sought in order to enrich United States science and technology for military purposes in unique ways. This means, however, that we must be prepared to show that permanent or even temporary immigration was permitted only to persons really qualifying under this requirement. While the State Department may grant considerable authority to a certificate of qualification from the sponsoring agencies, the State Department must nevertheless be satisfied with respect to the qualifications.

2. The person seeking permanent immigration must intend to leave everything German behind him and to make the United States his home forever and ultimately to pledge undivided allegiance to the United States, repudiating all German connections. This is especially important because of the security interest. Any person who could not certainly qualify under this heading should be admitted only on a lesser basis, such as a temporary visa for limited purposes, under close surveillance. It should be remembered that permanent immigrants will become citizens.

3. The elements of objectionability go beyond the mere Nazi affiliation question. The State Department must see to it that the persons coming here are not tied, in any way, to an illegal or doubtful relation with a German firm such as might figure in an anti-trust investigation. Moreover, whether or not the immigrant is a Nazi, he may nevertheless be a Pan Germanist or so connected as to be easily a part of a Pan German plan.

4. It must

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4. It must be borne in mind that the security danger of these persons may appear at any of the following stages:

a. They will engage in research in order to maintain German skills and technology, for transmission to Germany some time in the future.

b. They will return to Germany at a propitious moment carrying with them more than they brought here or having left nothing of substantial value.

c. They will stay here relying on citizenship to protect them from internment or other surveillance.

d. They will make contacts with others in the United States for industrial, political or military intelligence purposes.

5. Persons whose presence is sought primarily to deny them to others should not be brought in as immigrants. In those cases, provision should be made to maintain them on a custody basis over a long period, or to deny them the benefits of free movement such as would be involved in a permanent, or even temporary, immigration status.

6. Persons whose presence is desired regardless of their loyalty to the United States should be so handled as to make their future naturalization an independent consideration.

7. The influx of scientists in the United States creates a burden on the FBI and other internal security agencies which should have rested with the Allied Control Council. This burden is a difficult one to bear, in view of the nature of the security menace.

8. Since the security danger, apart from straight espionage, is one of sending information or returning to Germany, or otherwise aiding in some plan for rebuilding German power based on science and technology, we must seriously consider the imposition of new types of controls applicable to these cases. This can be done by (1) the nature of the visa, (2) the terms of the contracts (a) of employment and (b) entry into the United States, and (3) possibly new legislation to govern future rights and privileges of such persons as residents or citizens.

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III. State Department Requirements

We must, therefore, insist upon the following steps:

1. Army and Navy investigation within Germany and Austria of all relevant factual considerations. This would cover, of course, the qualifications of the expert and his real need for immigration of his relatives (in preferred status) to insure the maximum utilization of his abilities. The following would also be covered:

a. The existence of any planning now or hereafter by German scientists and technicians for coordinated research.

b. The complete history of affiliations and general ideas of the expert and the other related applicants for immigration.

c. An investigation into the various societies--such as the VDI--with which the applicant has been affiliated (including a thorough reading of all society files, correspondence and the like, and interrogation of officials and members).

d. The existence of any ties between the applicant and any research organization, industrial organization, government office, etc. which might be maintained after his departure to the United States (including pension rights, patent rights, contract claims, etc.).

e. Factors which might lead to blackmailing or other coercion of the applicant in the future.

An Office of Controls representative in Germany should be assigned to follow and advise on the investigations followed--for scope, adequacy, etc.

2. Investigation, which should be imposed primarily on G-2, of the applicants within the United States during a probationary period to include:

a. Censorship.

b. Close surveillance for the purposes of the foregoing program.

c. Contacts

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a. Contacts with German groups here, etc.

3. Contracts should be drawn up, or their legal basis provided, by which the applicants would submit themselves to obligations (enforceable in equity and by administrative sanctions) to cover each of our security policies in detail. This means that we should explore the following:

a. The contract between the applicant and the United States Government. By this, passage and facilitation are provided in exchange for an undertaking never (1) to return to Germany, or (2) to have communication in scientific or technical matters with Germany or German organizations or scientists except with the authorization of the Departments of State and Justice (a procedure would have to be outlined in detail) and (3) an injunction shall be consented to against sending information to Germany or Germans, or working in the cause of any German company or institution, or returning to Germany at any date regardless of citizenship except by consent of the Government or violating security regulations of the Departments involved.

b. A basis for denying the issuance of a passport in the case of attempts to violate.

c. A basis for denying naturalization under the same circumstances.

It is realized that this may involve origination of a new type of agreement. In view, however, of the fact that the overall considerations in the past in such cases have been those of public policy, an expression of the specific national interest should be effective to induce courts to support these provisions as a matter of policy.

4. Investigations should be based on debated questionnaires and personal history statements. In the questionnaires all relevant items should be given by the applicant and by the sponsoring agencies. The investigations conducted should be coordinated with investigations into the German societies and other organizations, and with related individuals, disclosed by the questionnaires. CIC should be required to conduct intensive investigations into resurgence movements involving scientists and technologists within Germany and

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elsewhere and the results of these investigations should be communicated to the Department.

5. A Board of Justice and State representatives should pass on these cases independently of the JIOA. The final decision should be left, nevertheless, with the consuls who should be informed of the Department's policy.

6. Periodic reports with respect to the occupation of the scientists and their families should be required from employers, sponsors, etc., for a substantial period of time in the indefinite future. It may be noted that this recommendation was also made by the British Chiefs of Staff in their own considerations of the same problem. In this connection, it may be noted the British also recommended that these individuals should be permitted access to only such information as might be essential for their work and that "such legal conditions" should be imposed by the Home Office on entry as the Home Office "consider may assist them at a later date if the need arises to eject any particular individual".

The Department should give JIOA, in fulfillment of the Department's obligation to facilitate: (a) procedural information, (b) arrangements for visas in a neighboring country (for example, Mexico), and (c) priority in clearance of names.